

Drinking Water Program Overview For the State of West Virginia

(as of 07/29/03)

Public Water System Supervision Program

Program Manager: Wanda F. Johnson (4-3249)

Funding

| Fiscal Year | Federal Share | State Share | Total Program Costs |
|-------------|---------------|-------------|---------------------|
| 2002 | \$807,000 | \$ 587,918 | \$ 1,394,918 |
| 2003 | \$818,596 | \$725,180 | \$1,543,776 |

State Program Highlights

Strengths

West Virginia Department of Health and Human Resources (WVDHHR) has made great efforts to stay on top of adopting new regulations. They now have primacy for the Interim Enhanced Surface Water Treatment Rule (IESWTR), Consumer Confidence Report (CCR) and Stage 1 Disinfectant/ Disinfection Byproducts (D/DBP) Rule. They have submitted their primacy application for the Public Notification Rule (PN), the Radionuclide Rule and the Lead and Copper Minor Revisions (LCRMR) which is now under EPA's 90-day review. They submitted their first annual Operator Certification Report in accordance with the Guidelines (24 FR 5916, February 5, 1999) and Expense Reimbursement Grant (ERG) which are being reviewed by EPA.

WVDHHR has taken a proactive monitoring approach by sending out letters encouraging small systems to monitor for Total trihalomethanes (TTHMs) and Haloacetic Acids (five) (HAA5s) under the Long Term 1 Enhanced Surface Water Treatment Rule, and radiological contaminants under the new Radionuclides Rule. In doing so, they hope to identify systems needing to install treatment before the new TTHM and HAA5 maximum contaminant levels (MCLs) take effect for all systems, and to encourage early compliance for radiological contaminants.

Weaknesses

Although much progress has been made to complete ground water under the direct influence of surface water (GUDI) testing due to a 1999 Corrective Action Plan, WV continues to have a hard time getting smaller and/or orphan systems to do testing. WVDHHR has began taking enforcement actions with systems failing to complete the testing and is hopeful to have GUDI determinations completed for all systems by the end of 2004. The completion deadline for community systems was June 1994 and the completion deadline for non-community systems was June 1999.

They also continue to have some difficulties in getting timely

certifications from their Office of the Attorney General. These certifications are required to retain primacy.

Source Water Assessment Program

WVDHHR continues their efforts in completing their source water assessments. The small ground water CWSs serving less than 250 people, and non-community water systems (NCWS) were not completed by the May 2003 deadline. Their biggest obstacle to completing the assessments on-time has been the length of time to get contracts in place. In some cases, it has taken more than a year for contracts to go through WVDHHR purchasing, state purchasing, and the Attorney General's office. Another problem has been the loss of staff that have worked on the assessments. EPA encourages the state to complete all source water assessments .

Capacity Development Program

A team of three staff members are dedicated to the Capacity Development Program to implementing the program.

West Virginia has completed its initial assessment of all CWSs and NTNCWSs systems where all systems were contacted and site visits were made when appropriate. Some of the findings from the assessment are:

- A significant difference in the service populations of failing systems and viable systems. The viable water systems have an average population more than five times that of the failing systems and more than twice that of marginal systems.
- Of the 94 failing water systems, 45 (48%) are located in Wyoming and McDowell counties. These two counties contain only 12 viable water systems and 20 marginal water systems. The failing water systems are primarily small community water systems (both publicly and privately owned). In contrast, the viable water systems are primarily schools, government-operated facilities or larger community water systems.
- Inadequate financial or technical capability of water systems is the result of inadequate, ineffective current or past management. PSDs where the water system is managed by a board appointed by the county commission, and larger municipalities, with appointed water boards separate from the elected officials, generally function more independently and operate more like a business. This more independent, business-like operation generally results in a water system with better TMF capability and increased long term viability by making difficult unpopular decisions to raise water rates and generate needed revenue.

WVDHHR was successful in its efforts with eight small "non-viable" systems to consolidate their TMF (technical, managerial, financial) capabilities into the McDowell County Public Service District to promote more viable water systems in McDowell

County. West Virginia is working on similar projects in McDowell and Wyoming counties.

West Virginia's next annual implementation report for the Capacity Development Program is due November 15, 2003.

WVDHHR submitted a report to the Governor on the efficacy of the Capacity Development Strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State by the September 30, 2002 due date. The Report was made available to the public.

Operator Certification Program

WVDHHR's Operator Certification Program was submitted and approved. The state submitted their first annual Operator Certification Report in accordance with the Guidelines (24 FR 5916, February 5, 1999) by the 06/30/03 deadline, which is now being reviewed by EPA. This will enable EPA to evaluate information prior to the end of the fiscal year that will be used to determine if the state is eligible to receive its full Drinking Water State Revolving Fund (DWSRF) grant allotment for next year, or if we should withhold 20%.

Furthermore, in order for WVDHHR to take advantage of funding under the Expenditure Reimbursement Grant (ERG) provided through the DWSRF for operator certification reimbursement, the state applied for funding well within the September 2003 deadline.

State and Tribal Assistance Grant (STAG) and Science and Technology (S&T) Grant

The STAG is targeted specifically at protecting public water systems, by making funds available to the states. These funds are then used by the states for coordination activities with public water systems on critical water infrastructure protection efforts. EPA awarded WVDHHR \$257,300 on October 7, 2002, to support enhancement of emergency response and preparedness and to provide technical assistance to the state's 555 public water systems. In particular, the production and distribution of a security-related assistance package to the public water systems (PWS). These "security kits" assist in vulnerability self-assessments and development of emergency response plans. Training sessions for PWSs will be held region-wide, hand-held PC units will be programmed and provided to state staff for assessing data while on-site at water systems and a communications data base will be developed for use between systems and the state to transmit essential monitoring emergency information.

Unfinished Business in West Virginia

Issue: Primacy Application for Arsenic needs MCL revision .

Background: EPA has deemed WV's arsenic package complete and final and has granted the

state interim primacy. On June 26, 2003, EPA received a letter from WV's attorney general stating that WV does not have the authority to enforce the revised arsenic MCL of 0.010 mg/l until the state's legislature can adopt the updated Public Water Systems Regulations (64CSR3) which includes the revised MCL. This is expected to happen during the next legislative session in January 2004. EPA does not expect to approve the state's primacy application until its legislature can adopt the revised regulations.

Potential Resolution: EPA will work with WVDHHR for detection of any arsenic MCL violations and take the necessary enforcement actions until WV receives primacy.

Issue: Inability and/or delay in getting certifications from the WV Office of the Attorney General (AG).

Background: WVDHHR continues to have problems getting AG Statements in order to submit their primacy packages by the required deadline. Without updated programs, the state risks Primacy. They missed the Radionuclides deadline of 12/7/02 and the Lead and Copper Minor Revisions extension deadline of 12/31/02. According to WVDHHR, this primacy package had been in the AG's office since Nov 1 waiting to get a statement. With the arsenic deadline that was fast approaching, 1/22/03, EPA offered assistance to help speed up the process but it was not necessary. They were able to get an AG Statement to include the Radionuclide, Arsenic and Lead and Copper Minor Revisions Rule. This primacy package was received by EPA on 1/14/03.

Potential Resolutions: EPA suggested to WVDHHR that the AG can designate General Counsel with authority to provide clarifications to the enforceability of WV law and regulations. The AG would send a letter to the EPA Regional Administrator giving his authority, the name of the designee and the applicable law and regulations for review. EPA believes this will help avoid WVDHHR's primacy packages from getting held up in the AG's office.

Issue: Hiring difficulties and inability to retain staff have caused delays in key program areas.

Background: WVDHHR had been working under a Corrective Action Plan to build its capacity to accomplish objectives by filling vacancies. Low staff levels caused them to fall behind on conducting sanitary surveys and evaluating groundwater systems under the direct influence of surface water (GUDI). It also has the potential to impact Primacy if the state does not have enough staff to implement future regulations.

Potential Resolutions: The state has made significant progress in filling vacancies thus, building their capacity to fully implement their PWSS Program. WVDHHR's staffing is at 99.9% with only 2 vacancies (secretary (position on hold) and programmer (advertised)). This is evident in the substantial ground made in completing GUDI assessments and the dramatic decrease in data deficiencies. Sanitary surveys are back on schedule as well. Progress still needs to be monitored during annual reviews and before future grant awards in regards to GUDI status and staffing levels.